Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition	)	GN Docket No. 12-353
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Structure and Practices of the Video Relay Service Program	)	CG Docket No. 10-51
	)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
Numbering Policies for Modern Communications	)	WC Docket No. 13-97
	)	

PEOPLE OF THE STATE OF ILLINOIS

COMMENTS ON TRIALS AND DATA COLLECTION

The People of the State of Illinois

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I. Introduction – Scope of the People's Comments

The People of the State of Illinois, by Attorney General Lisa Madigan, submit the following comments and recommendations in response to the Commission's January 31, 2014 *Order, Report And Order And Further Notice Of Proposed Rulemaking, Report And Order, Order And Further Notice Of Proposed Rulemaking, Proposal For Ongoing Data Initiative* (Initiating Order) in this proceeding. In that Initiating Order, the Commission recognized that the networks that provide telephone, internet access, and video services are incorporating more and more Internet Protocol ("IP") and digital functions and capabilities. The Commission invited carriers to propose experiments or trials to test and illustrate the effect of this transition to IP technology on the provision of communications services.[1]

At the outset, the Commission emphasized the importance of preserving the "network compact" that has been the foundation of national telecommunications policy and consumer protection. As the Commission stated:

> Americans have come to expect secure, reliable, and innovative communications services. The purpose of these experiments is to speed market-driven technological transitions and innovations by preserving the core statutory values as codified by Congress – public safety, ubiquitous and affordable access, competition, and consumer protection – that exist today.[2]

These Comments will address the effect that the shift from the use of time-division multiplexed circuit switch technology ("TDM") to the use of IP-based technology for telecommunications services is already having on consumers – effects that the trials are intended

[1] Initiating Order, ¶ 1.
[2] Initiating Order, ¶ 1.

to highlight.[3] While the incorporation of IP technology into America's telecommunications networks is ongoing,[4] it is only recently that efforts to *replace* legacy TDM services with IP and wireless substitutes have been initiated. The "trials" that are contemplated by the Commission's Initiating Order represent a valuable attempt to monitor this process and to identify potential problems and unanticipated consequences arising from the transition.

Today consumers are already facing the effects of that change. Some of these effects result from certain technological incompatibilities between legacy customer equipment and IP or wireless networks, or the elimination of some properties of legacy networks (*e.g.*, an independent power supply, enabling service in a commercial power outage), while others can be traced to differences in the nature and extent of regulation of legacy versus IP-based services and to various pecuniary factors. In some cases, both conditions may be at play, as regulation has not yet responded to some of the technological effects that the transition may impose upon consumers.

Issues facing consumers include that TDM-based voice telephone service is becoming degraded; carriers refuse or decline to repair existing service lines; consumers face new forms of telephone and Internet access service at both different terms and conditions (*e.g.*, bundling requirements, call restrictions) and higher rates; and the functions available with their communications services change (*e.g.*, access to emergency services such as medical alert services and security services; availability of telephone service and power in the event of commercial power outages; the ability to use a fax machine); and in some cases, consumers are losing the ability to obtain TDM-based or any other wireline telephone service at their residence

[3] Initiating Order, ¶ 8 ("We emphasize that the goal of all of these experiments and initiatives is to learn about the impact of the technology transitions on the customers – and communities – that rely on communications networks. ¶ 2 ("We must act with dispatch. Technology transitions are already underway.")

[4] Initiating Order, ¶ 2 ("We must act with dispatch. Technology transitions are already underway.")

or business from their traditional telephone company, or incumbent local exchange carrier ("ILEC").

Section II of these Comments addresses the scope of the trials proposed by AT&T and their relation to the IP transition. Section III describes the services at issue in the trials and the IP transition generally as services that transmit voice and other data or content without modification or change, and concludes that these services fit the statutory definition of "telecommunications" subject to common carrier regulation under the Telecommunications Act of 1996.

Section IV addresses the effects of the carriers' implementation of technology changes in the major states of Illinois and New York, involving incumbents AT&T and Verizon, respectively. Section V recommends the collection of data in the trials but also more generally so that the Commission, state commissions, and consumers can both recognize the changes being implemented by the carriers and fairly assess their effect on consumers and the public interest. As the Commission stated:

> we endeavor to learn in diverse ways how the modernization of communications networks is affecting the achievement of our statutory responsibilities. And for that we need real-world data. These data will fuel the ongoing public dialogue about the technology transitions, ensuring that it is fact-based and data-driven. Having a robust and factually-informed public discussion will help guide the Commission as we make legal and policy choices that advance and accelerate the technology transitions while ensuring that consumers and the enduring values established by Congress are not adversely affected.[5]

The proposed data collection will allow future legal, regulatory, and policy decisions to be based on a well-developed factual record that is more comprehensive than the two proposed trials alone would generate.

[5] Initiating Order, ¶8.

II. AT&T's Proposed Trials, While Limited, Highlight The Challenges Associated With The Carriers' Plans To Transition Telephone and Broadband Service To An All IP Network.

To date, the only major carrier[6] to propose trials is AT&T, and the two trials proposed are quite limited, calling into question whether they are sufficient to identify and apply lessons-learned to larger urban markets and to the country as a whole. One trial would take place in a rural wire center in Alabama, serving only 4,388 living units[7] and the other is based in a suburban wire center in Florida serving 49,712 living units.[8] Overall, AT&T's network covers 22 states from California to Wisconsin to Florida,[9] with approximately 75 million living units.[10] The trials will only affect 0.07% of the living units in AT&T's service area, and only 2 of its 4700 wire centers. Nevertheless, the trials provide the Commission and interested parties a window into the transition process and are a reasonable vehicle for considering the technical and regulatory issues the transition to IP and to wireless voice and Internet access raise.

In its Proposal, AT&T states that a [confidential] number of living units take wireline services, including both TDM and IP-based service, and asserts that "many customers already

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[6] For purposes of these Comments, the major carriers are AT&T, Verizon, Comcast. Each of these carriers except Comcast is an incumbent local exchange carrier or is a successor to an ILEC that developed its network as a protected monopoly. The state and federal statutory obligation to serve all customers persists in most but not all states. Comcast started as an incumbent cable television provider, providing video service under municipal franchises to provide video service universally. It expanded into telephone and Internet service as IP technology developed. It now sells telephone, Internet and television services over the network originally installed when it had a protected monopoly.

[7] AT&T defines living units as: "business, residential, vacant and under-construction locations. Living units are the units network engineers use when designing and building communications networks because each living unit is a separate location that AT&T historically has been required to serve upon request." AT&T Wire Center Trial Operating Plan at 3, fn. 4.

[8] AT&T Proposal for Wire Center Trials at 13, 15 (filed Feb. 27, 2014)(hereafter cited as ÁT&T Proposal")

[9] AT&T is the successor of the incumbent local exchange carrier in the following states: California, Nevada, Texas, Oklahoma, Kansas, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Illinois, Indiana, Wisconsin, Michigan, Ohio, Georgia, North Carolina, South Carolina, Florida, and Connecticut. http://www.att.com/Common/merger/files/pdf/22_state_map.pdf AT&T has entered into a contract to sell its Connecticut service area to Frontier Communications, which is now subject to regulatory review.

[10] This figure is a rough estimate, based on AT&T's statement that it expects to reach 75% of the living units in its 22 state service area, and that it expects to reach approximately 57 million customer locations with it expanded wireline IP-broadband service. See AT&T Proposal at 5-6.

have made the choice, even in rural areas, to transition away from the traditional TDM telephone network and services."[11] As will be discussed below, there are many factors leading consumers to end their subscriptions to traditional landline telephone service. The factors that drive consumers from traditional service should be considered in assessing both the trial in general and the number of wireline as opposed to wireless telephone subscribers at the trial starting gate.

AT&T's description of both the trial and its plan for its own IP transition provides an important context for the Commission's evaluation of the trials and the transition in general. AT&T concedes at the outset that its "wireline IP network will reach approximately 75 percent of customer locations in our 22-state wireline footprint."[12] That means that 25% of the customer locations in that 22 state area – both business and residence – will be without an AT&T wireline option for either telephone or Internet access. A key question before the Commission is what options are left for this 25%, which could affect close to 20 million residential and business locations? How should this result be assessed in light of the core statutory values governing the provision of telecommunications?

AT&T cites a wireless option for both telephone and Internet access in those areas where it does not intend to continue wireline service. Key questions are: (1) have consumers found the wireless home phone option to be a true and acceptable substitute for wireline telephone and Internet access services in other parts of the country; (2) in how many areas are there other wired options available, *e.g.*, from municipal networks or cable networks, and are consumers using those options; and (3) what will be the effect on competition, even if it is only between two access providers, if AT&T withdraws wireline telephone and Internet access from 25% of the households in its 22-state service area?

[11] AT&T Proposal at 13-15.
[12] AT&T Proposal at 6.

Another set of issues highlighted by the transition and AT&T's filing is that the IP network and the wireless network do not provide the same functionalities as TDM service.[13] Functions that cannot presently be provided by one or both of these networks include the display of addresses when a call is made to 911 (wireless), or in some cases, the failure to route a 911 call to the nearest emergency call center; the use of home security systems, medical monitoring alert services, fax services, and credit card authorizations; and the availability of power for telephone service in the event of an extended commercial power outage.[14] AT&T asserts that it is developing enhancements to its wireless services to address these services, and will not discontinue TDM service until those enhancements are achieved.[15]

If there were few or no functional limitations, consumers would ordinarily be indifferent to the technology that underlies their telephone and Internet access services. Just as television consumers view essentially the same content regardless of whether they use over-the-air, cable, IP TV or satellite technology, telecommunications[16] consumers are purchasing the ability to make telephone calls and to access the Internet in order to send and receive conversation and content without modification or interference from the carrier. Consumers purchase the

[13] The limitations of both AT&T's IP based service and its wireless service are acknowledged by AT&T in its trial proposal. AT&T Trial Proposal at 19-20. AT&T's web site includes information about battery backup and an option to check to see if the consumer's security system or medical alert will work with Uverse Phone. *See* att.com – home phone – uverse voice – learning center at http://www.att.com/shop/home-phone.html#fbid=WHQuKlAVYOq?tab3 (battery backup) and http://www.att.com/shop/home-phone.html#fbid=WHQuKlAVYOq?tab3

[14] AT&T Proposal at 19-20 (AT&T's "wireless and wireline IP-based services …will support the vast majority of the devices and applications enumerated in Appendix B of the Transitions Trial Order." AT&T states that it is currently developing a wireless service so businesses can use existing customer premises equipment; wireless home phone does not work with analog data devices and services, "e.g., home security systems, fax machines, and dial-up Internet service") . These deficiencies and differences are expressly addressed by AT&T notwithstanding its statement: "But make no mistake, whether a customer subscribes to a wireless or a wireline broadband product, the capabilities of both of those services far exceed what is available in the circuit switched POTS environment." *Id*. at 9.

[15] *Id*. at 20-21.

[16] The term "telecommunications" is defined in the Telecommunications Act of 1996 as follows: "The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. 153(50).

transmission service provided by the network – not the underlying TDM or IP technology. However, consumers are sensitive to changes in capabilities, price, terms and conditions, and service quality. The two proposed trials will provide a window into how consumers respond to these changes, but due to the very small sample represented by the trials, the Commission should include in its analysis a consideration of how consumers throughout the country are being affected by the transition to IP-based service and the withdrawal of wireline telephone service in those areas where IP telephony is not being offered.

III. The IP Transition And The Continued Regulation of Providers of Telephone Service As Common Carriers.

The Telecommunications Act of 1996 was passed against the backdrop of extensive common carrier regulation of telephone service and Internet access. *Verizon v. FCC,* 740 F.3d 623, 638-639 (D.C. Cir. 2014)(addressing the Commission's "long history of subjecting to common carrier regulation the entities that controlled the last-mile facilities over which end users access the Internet"). While inviting competition in the provision of telecommunications services, including basic telephone service, Congress preserved the regulation of "telecommunications" under traditional common carrier regulation. The Telecommunications Act of 1996 defines telecommunications as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received,"[17] and directed that a provider of telecommunications "shall be treated as a

[17] 47 U.S.C. 153(50).

common carrier under this chapter only to the extent that it is engaged in providing telecommunications services."[18]

The Commission should assess the IP transition trials relative to how IP and TDM services meet essential telecommunications needs. The trials should identify specific technical differences and issues raised by IP and TDM capabilities, and provide guidance as to how these can best be addressed and overcome. While the Commission has indicated that it is not "seeking to resolve the legal and policy questions arising from the technology experiments,"[19] the Commission should take care to assure that differences in regulatory approaches do not affect its assessment of the transition.

The complaints discussed below respond to the Commission's request that the trials and data collection should address "how the modernization of communications networks is affecting the achievement of our statutory responsibilities."[20] A key issue that repeatedly arises is whether providers of telephone service continue to be subject to state rules governing service and should be treated as common carriers. Federal law describes the obligations of a common carrier as including the regulatory obligations (1) to furnish communications services upon reasonable request,[21] (2) to provide service at just and reasonable rates,[22] and (3) to provide service without undue or unreasonable discrimination, preference or disadvantage.[23] While the IP transition includes the use of Internet Protocol technology, the carriers providing telephone and Internet

[18] 47 U.S.C. 153(51). The full text defines telecommunications carrier as follows: Telecommunications carrier. The term ''telecommunications carrier'' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

[19] Initiating Order, ¶8.

[20] *Id.*

[21] 47 U.S.C. 201(a).

[22] 47 U.S.C. 201(b).

[23] 47 U.S.C. 202(a).

access services continue to provide "telecommunications," *i.e.* the transmission of information "without change in form or content."[24] If an IP-based telecommunications service is offered as a functional replacement for a traditional TDM telecommunications service, its regulatory status and obligations should not change.

In *Verizon v. FCC*, the Court held that a service that the Commission classifies as an "information service"[25] cannot be subject to common carrier obligations as a matter of law.[26] The extent of both state and federal power to ensure fulfillment of the statutory goals of universal and affordable service, public safety, competition, and consumer protection[27] require that the public interest in unfettered access to communications services without discrimination or preference be protected. The Commission should consider how the provision of telephone service is being treated by carriers and the states, and ensure that it continues to be treated as a statutory telecommunications service with all of the consumer and network protections of common carrier regulation.[28]

Telecommunications services have historically been subject to federal common carrier regulation as well as state regulation[29] and consequently concerns about network functions and

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[24] As defined in 47 U.S.C. 153(50).

[25] 47 U.S.C. 153(24) Information service. The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." The definition of an "enhanced service" is a service that does not "employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information" 47 C.F.R. §64.702.

[26] *Verizon v. FCC,* 740 F.3d at 649.

[27] Initiating Order at ¶ 1.

[28] 47 U.S.C. 153(51).

[29] While there is no question that telephone services provided over the TDM network are subject to common carrier regulation under Title II of the Communications Act, the Commission currently has before it the question of whether broadband Internet access should be classified as a telecommunications service under Section 153(50). See (see footnote 16 above for statutory text) or as an information service under Section 153(24)("The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or

price, terms, and conditions of service have been subject to federal and state regulatory oversight. As part of its examination of the IP transition, the Commission should address the following specific questions: (1) do IP telecommunications services retain the same regulatory status and oversight as the TDM services they replace, or have the carriers treated them as unregulated information services, and (2) what has been the effect on price, terms and conditions, and service quality when a consumer accepts a change to IP telecommunications services.

IV. The Commission Should Consider The Effect Of The Transition From TDM Service On Consumers And The Need To Preserve Statutory Core Values As Carriers Transition To IP Networks.

Regardless of the fact that AT&T has proposed only two small trials and no other large carrier has proposed a trial, due to the business plans of incumbent carriers, consumers throughout the country have been facing the effects of the transition away from universal telephone service provided over the TDM-based network. As demonstrated by AT&T's proposed trial, these business plans not only incorporate IP technology, but would redefine the carriers' fundamental obligation to provide wireline service to all households universally and deviate from the "core statutory values" that have governed the telecommunications industry since the Communications Act was enacted in 1934.

The trials and the Commission's review provide a welcome opportunity to directly and comprehensively address changes that have been ongoing on a customer-by-customer basis for several years. In addition to gathering information and conducting analyses about the small scale

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the management of a telecommunications service.") 47 U.S.C. 153(50) & (24). See *Verizon v. FCC*, 740 F.3d 623 (D.C.Cir. 2014); *In the Matter of the Appeal Decision in Verizon v. FCC, and What Actions the Commission Should Take, Consistent with its Authority under Section 706 and all other Available Sources of Commission authority, in Light of the Court's Decision, GN 14-28*, Notice of Feb. 19, 2014.

AT&T trials, the Commission and the States need to consider information from other locations and other incumbent carriers who today are incorporating IP technology into their networks to provide interstate and local telephone service.

As state offices that regularly receive consumer complaints, the Offices of the Attorneys General have a window into how consumers are experiencing the IP transition. While other offices may have express jurisdiction to enforce state or federal telecommunications law,[30] consumers come to their Attorney General when they need help. These complaints warn us about how the changes being implemented by the carriers are affecting consumers and give regulators the opportunity to address the real-world effects of carriers' approaches to the transition to IP technology.

While consumers also have the right to lodge complaints about telecommunications with the Commission,[31] the Attorney General Offices of New York and Illinois receive a significant number of telecommunications related complaints annually.[32] In addition, state public utilities commissions receive another set of complaints that in recent years approximate the number of consumer contacts associated with telecommunications service reported by the Attorney General

[30] *See, e.g.*, http://www.fcc.gov/complaints (the Commission online site for accepting complaints); 220 ILCS 5/4-101 *et seq* (General Powers and Duties of the Illinois Commerce Commission); 83 Ill. Admin. Code 730 and 735 (Illinois Commerce Commission regulations governing telephone service); 220 ILCS 10/2 (Citizens Utility Board created to "promote the health, welfare, and prosperity" of residents "by providing for consumer education on utility service prices and on benefits and methods of energy conservation. Such purpose shall be deemed a statewide interest and not a private or special concern."). The New York Public Service Commission also receives telecommunications complaints, as does the New York Consumer Protection Board and the New York Attorney General.

[31] http://www.fcc.gov/complaints.

[32] In 2013 and 2012, the Illinois Attorney General's Office received 1,870 and 2,240 telecommunications-related complaints, respectively, consistently ranking the third or fourth highest number of complaints. http://illinoisattorneygeneral.gov/pressroom/2014_02/20140211.html (2013); http://illinoisattorneygeneral.gov/pressroom/2013_03/20130305b.html (2012). In 2012, the New York Attorney General received 804 telecommunications related complaints, and 1,141 telecommunications related complaints were received in 2013.

Offices.[33] The Commission reported 3,805 wireline related consumer complaints in the first quarter of 2013.[34]

In most cases, consumers are moved to contact the government for help only after they have tried, but failed, to resolve a problem with their carrier directly. Consumers generally do not understand the intricacies of telecommunications policy and law, but they know that they are entitled to secure, reliable and affordable service. Consumers also file complaints when they believe they have been treated unfairly, or when they believe that the carrier has made mistakes that it fails or refuses to correct.

When these expectations are frustrated, they may turn to our offices. This is what we are seeing:

a. Degraded Service Quality

Consumers contact our offices when requests for the repair of their TDM service are delayed or not completed as expected. In many parts of Illinois, the incumbent carrier is AT&T. AT&T elected statutory "market regulation" in 2010.[35] While Illinois law requires AT&T to continue to provide certain basic landline telephone services in its service area, AT&T is also free to market other services, such as IP telephony under its U-verse brand and its wireless service.[36] As the Commission's Local Telephone Competition Report, Status as of December 31, 2012 shows, nationwide there were 42 million interconnected Voice over Internet Protocol

[33] The Illinois Commerce Commission reports that in 2012 and 2011 it received 1,988 and 1,808 telecommunications-related complaints. The numbers for 2013 have not yet been reported. ICC Consumer Services Division Annual Report for 2012 at page 25, http://www.icc.illinois.gov/reports/report.aspx?rt=13
The New York PSC reports consumer complaints on a monthly basis. See Complaint Statistics – Office of Consumer Services,
http://www3.dps.ny.gov/W/PSCWeb.nsf/All/448C499468E952C085257687006F3A82?OpenDocument

[34] Summary of Top Six Consumer Informal Complaint Subjects Processed by the FCC's Consumer & Government Affairs Bureau, First Quarter – Calendar Year 2013.

[35] 220 ILCS 5/13-506.2.

[36] *Id*.

(VoIP) telephone lines and 96 million end-user switched access lines in service in 2012.[37] According to the 2012 Report, over the period from December, 2009 through December, 2012, "interconnected VoIP subscriptions increased at a compound annual growth rate of 17%, mobile telephony subscriptions increased at a compound annual growth rate of about 4%, and retail switched access lines declined at about 9% a year."[38] From December, 2011 to December, 2012, for ILECs only, nationwide, the number of interconnected VoIP lines increased by 46% while the number of switched access lines decreased by 14.75%.[39] The reports for 2011 and 2012 show substantial increases in ILEC VoIP, particularly bundled with Internet *(e.g.*, Alabama: 54% increase; Florida: 42% increase; Illinois: 30% increase; and New York: 87% increase).[40] At the same time, the number of TDM, or switched access lines, is shrinking. *(e.g.*, Alabama: 11% decrease; Florida: 14% decrease; Illinois: 11.6% decrease; and New York: 13% decrease).[41] Are all of these customers making the move voluntarily?

Consumer complaints indicate that at least some consumers are being moved off TDM service when the quality of service deteriorates, and some are being told that TDM, or traditional telephone service, is no longer available to them. For example, one complaint received by the Illinois Attorney General indicated that when the consumer's line needed repair due to static so severe that it interfered with the ability to use the line, the consumer was shifted to IP U-verse Voice service.[42] While the consumer received clear service, she was charged a $99.00

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[37] Local Telephone Competition: Status as of December 31, 2012, Industry Analysis and Technology Division, Wireline Competition Bureau, November 2013, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-324413A1.pdf

[38] *Id.* at 2.

[39] *Id*. at Table 9 and Local Telephone Competition: Status as of December 31, 2011, Industry Analysis and Technology Division, Wireline Competition Bureau, January, 2013 at Table 9, http://www.fcc.gov/document/fcc-releases-new-data-local-telephone-competition-1

[40] *Id.*

[41] *Id.*

[42] Illinois OAG File No. 2014 CONSC 00370133. The Utility Reform Network, a California based consumer advocate, filed a complaint before the California Public Utilities Commission on March 17, 2014, alleging that

connection fee for the "new" service, and saw her bill increase substantially, due in part to new terms and conditions that were not explained to her when her service was switched.

Other consumers have complained to the Illinois Attorney General's Office about stranger service quality problems, such as noise and static, lack of dial tone, phantom outbound calls, and inaccurate or inoperable special features and multiple people on the same line.[43] While those complaints appear limited to TDM service, the reliability and quality of the IP-based service have also been questioned. Some consumers find the new U-verse Voice service to be unreliable[44] and there are reports that the voice service is less clear than their former TDM service and more like a cell phone.[45] While it is undisputed that IP-based telephone service may provide more functions than TDM service, the Commission should take special steps to assess the quality of service provided by IP voice. The clear quality of traditional TDM service is well known. The Commission and the carriers should require no less of IP based service.

In New York, Verizon consumers whose TDM lines need repair have found their requests for repair either go unanswered or Verizon responds by trying to sell them its IP FiOS service or its wireless Voice Link service. Many months before Verizon's facilities along the Atlantic seaboard were damaged by Hurricane Sandy, Verizon publicly stated its intention to migrate customers from copper to FiOS, its IP product, wherever the company installed fiber, and to migrate customers to wireless service everywhere else.

Verizon was refusing to repair TDM service, and effectively forcing consumers to accept its VoIP product, knowingly or not. Emergency Motion of The Utility Reform Network (TURN) Urging the Commission to Take Immediate Action To Protect Verizon Customers and Prevent Further Deterioration of Verizon's Landline Network, CA PUC No. R-11-12-001, TURN Emergency Motion re Verizon. Verizon denies that consumers are being "forced" off its TDM network. See http://bgr.com/2014/03/24/verizon-fios-migration-accusations/

[43] Illinois OAG File Nos. 2014 CONSC 00369693, 2014 CONSC 00369069, 2014 CONSC 00369668.

[44] Illinois OAG File Nos. 2013 CONSC 00368429 (elderly customer left without service due to repeated IP telephony outages); 2013 CONSC 00357899 (reliability).

[45] Illinois Citizens Utility Board Case ID 00208538 (6/27/2013) ("the telephone service is now very, very noisy with a continuous load [sic] buzz."); Case ID 00210560 (11/21/2013)("phone line has poor reception, drops calls or has static noise.")

Verizon CEO Lowell McAdam announced this new corporate strategy as follows:

> (T)he vision that I have is we are going into the copper plant areas and every place we have FiOS, we are going to kill the copper. We are going to take it out of service and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a pot of gold in my view.
>
> And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there. We are going to do it over wireless, not have a FIOS network, and force customers to accept wireless Voice Link. [46]

After Hurricane Sandy, and in response to residents' complaints about the lack of telephone service, the New York Public Service Commission held public hearings on Fire Island, New York. At that hearing, no fewer than eight people testified that when they asked Verizon to repair their service, it was not done.[47] These residents were left to put up with degraded wired telephone service, and when that failed, offered the wireless substitute for both voice and data.

b. Unavailable Service

Illinois and New York consumers have already been told that the incumbent local exchange carrier will no longer provide service to various customer locations. For example, an Illinois customer complained that he was told that ordinary telephone service was unavailable at his home in a dense area on the north side of Chicago. He reported that "in order to get a landline, it would be required to also bundle with another service, e.g. cable tv, Landline regular phone service was not available by itself." [48] Since a bundled package "did not fit my

[46] See Thompson Reuters Street Events Edited Transcript of June 21, 2012 1:00 P.M. G.M.T interview of Verizon Chairman and CEO Lowell Mc Adam at Guggenheim Securities Symposium.

[47] Several witnesses testified that they were told by Verizon service personnel: "I can't fix your line. I have been told I can't fix your line." See Temporary Use of Verizon's Voice Link Service on Fire Island, Transcript of August 24, 2013 Public Hearing at Ocean Beach Community House, Ocean Beach, New York, NY PSC Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to discontinue its current wire line service offerings in a specified area and instead offer a wireless service as its sole service offering in the area*, at 37. See also 42 ("four people are supposed to show up [for repair], never did,"), 45 ("they didn't come"), 54, 72 ("several repairs for people that have never showed up."), 78, 82, 91 ("We have been told that if the landlines fail we will not get them fixed.").

[48] Illinois OAG Complaint 2014 CONSC 00370650.

need/preference" he declined service.[49] However, he was later billed for service, and complained when the charges rose to $96.32, including $7.00 late payment charges.[50] Another consumer in suburban DuPage County, Illinois reported receiving a bill for $162.00 from the ILEC for telephone service he never received.[51] While these consumers were moved to contact the Attorney General after being billed for services they did not receive, they would have been landline telephone service customers had they not been told that service was not available. When assessing the assertion that consumers are leaving landline service "in droves,"[52] the Commission should investigate whether consumers are being told that stand-alone landline service will not be provided upon request, or must be bundled with Internet or video service.

The situation in Fire Island, New York, where Verizon sought to discontinue landline telephone service after Hurricane Sandy, further highlights the problem of consumers being refused or discouraged from obtaining landline telephone service in areas where the incumbent, *i.e.*, Verizon, has not deployed its IP service[53] and stopped repairing its TDM network. Consumers' experience with the wireless substitute offered in place of TDM and IP telephony, is discussed below.

c. Changed Prices, Terms, and Conditions

For about 100 years traditional telephone service has been subject to state regulation over prices as well as terms and conditions to assure that service is provided on just and reasonable terms. With the change to IP enabled service, carriers have changed both prices and terms and conditions. Consumers in some instances reach out to state Attorney General offices when their

[49] *Id.*
[50] *Id.*
[51] Illinois OAG Complaint 2014 CONSC 00371500.
[52] AT&T Proposed Trials at 4.
[53] Verizon stopped FIOS expansion in 2012. However, some commentators suggest that it should restart its build-out. See http://www.dslreports.com/shownews/Verizon-Again-Confirms-FiOS-Expansion-is-Over-118949 ; http://www.speedmatters.org/blog/archive/verizon-ceo-hedges-on-fios-expansion/ (March 11, 2014); and Verizon Might Someday Look At Expanding FIOS Further, http://www.dslreports.com/blog?cat=92 (March 12, 2014).

service does not match their expectations, because of a lack of disclosure or notice, because the changed terms were not clearly understood, or because the consumer finds the changes unfair or unreasonable. Some of the concerns expressed by consumers are as follows:

1. Voluntary Change. When assessing the rate at which customers are transitioning to digital service, and whether those changes are voluntary, the Commission should be aware that the carrier's marketing may lead consumers to believe they have no choice but to change their service. For example, an AT&T marketing letter dated May 3, 2013 informed the customer: "**We are excited to tell you that within the next 45 days, we'll be moving your Internet service to the AT&T U-verse network!"** (bold in original.)[54] When the customer contacted AT&T to arrange for new equipment, he resisted the change, and was then told that the letter was only "marketing" and while he would not be automatically switched, his service would have been interrupted had he not called.[55] Another consumer expressed concern that if she moved to U-verse, her price would remain the same for one year, but thereafter it would increase to the new U-verse data rate. She wanted to avoid the price increase and resisted the change.[56]

2. Increased Charges. The most common complaint from consumers is that telephone service charges are not what the consumer expected after a switch to IP-based service. Consumers have complained that when they call the carrier to see if they can reduce their telephone service charges, they are encouraged to take IP-based service, in AT&T's case, U-verse Voice.[57] Another customer stated: "every month they try to

[54] Illinois OAG Complaint 2013 CONSC 00357797.
[55] *Id.*
[56] Illinois OAG Complaint 2013 CONSC 00368390.
[57] *E.g.*, Illinois OAG Complaint 2013 CONSC 00365916.

charge me more and more."[58] The carrier charged the consumer a $99.00 installation fee to switch her service to U-verse Voice, and the terms and conditions changed significantly, resulting in an unstable and higher than expected bill.[59] Upon investigation, it became clear that instead of being charged on a *per call* basis for local calls, she was charged on a *per minute* basis for local calls, although this billing practice was not explained to the customer at the time that she was switched to U-verse. This is a major change from the way local calls are billed in Illinois, and resulted in the unstable and increasing charges she experienced.

Changes to the terms and conditions of service are not always clearly communicated to consumers either online, in online "chat" conversations, or in direct conversations with customer service representatives. AT&T describes of AT&T U-verse Voice 200 as providing 200 minutes of use, as follows:

> Unlimited calling to other Uverse Voice customers, plus 200 minutes of anytime calling to anyone else in the U.S., Puerto Rico, the U.S. Virgin Islands, Guam, and the Northern Marianas. Additional minutes billed at 7¢ per minute.[60]

In other words, U-verse Voice is unlimited to some customers, but other calls, local or long distance, are treated like "toll calls" subject to minutes of use charges. This term of service treats calls to U-verse Voice customers more favorably than it treats calls to other numbers, raising the question of unreasonable or undue discrimination and preference.[61] While calling plans are not new, the cost for the call is ordinarily linked to location or distance rather than which carrier serves the called party, a factor that is not generally known to most consumers.

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[58] Illinois OAG File No. 2014 CONSC 00370133.
[59] *Id.*
[60] See http://att.com/shop/home-phone.html?tgccParam=1
[61] See 47 U.S.C. 202(a).

Treating all local calls as toll calls subject to minutes of use charges may be a significant change in the way consumers are charged for local calls. This change can be expected to either result in consumers limiting their use of the network to save money, or in increased bills. The AT&T trial wire centers both serve populations that can be expected to be sensitive to price changes. AT&T reports that 51% of the population in the King's Point, Florida wire center are over 65 years, and 21% of the households in the Carbon Hill, Alabama wire center are below the poverty level.[62] The effect of this change in pricing on senior citizens and those of modest incomes should be closely reviewed in the proposed trials. In addition, the Commission should consider (1) whether consumers in these wire centers and in other states and wire centers currently have untimed *local* calling, (2) the effect of a change to toll, minute of use charges on both usage and total cost to the consumer, and (3) whether there is a cost basis for the resulting increase in charges.

In New York, Verizon advertises many different prices for FiOS voice only service. For example, the unbundled phone service, Digital Voice, is shown as $59.99 for "unlimited calling" in New York City.[63] Elsewhere on its site, Verizon identifies a FiOS Digital Voice service for $14.99 plus $0.05 per minute for all calls.[64] In Lansing, New York, regional home phone service is advertised at $37.04, and bundled with

[62] AT&T Wire Center Trial Operating Plan at 7 (Feb. 27, 2014).

[63] On Verizon's web site, the price for telephone only service in New York City is $59.99 for one year. http://www.verizon.com/home/shop/shopping.htm (deselect TV and Internet for Telephone only price). The price for telephone and Internet is lower, ranging from $34.99 to $54.99, but requiring a two year contract. *Id.* (select Internet and Telephone only). However, Verizon notifies consumers that Internet service and speeds are not guaranteed as follows: "Speeds and service availability vary. High Speed Internet Enhanced service will be provisioned based on customer location and Verizon line qualification requirements. Most will qualify at 1.1–3 Mbps speed tier. The 3.1–7 Mbps and 7.1–15 Mbps service tiers ranges are available in select locations only. Availability subject to final confirmation by Verizon." *Id.*

[64] See http://deals.servicebundles.com/verizon-home-phone/new-york

Internet is shown at $39.99.[65] However, these offerings are higher than the price for "plain old telephone service" or POTS, in Binghamton, New York which is listed at $15.80 per month with untimed local calls at $0.09 per call (not per minute).[66] Additionally, the FiOS device runs on house power, costing consumers for electricity and in the event of a power outage, runs on battery backup for a limited time only.[67] By comparison, the wireline service is self-powered.[68] Verizon does not disclose the typical electrical consumption of its FiOS device, a significant cost in parts of New York which have some of the highest electricity rates in the country, especially on Long Island and the New York City region.

3. Connection charges. Consumers who are encouraged to change from traditional landline service to U-verse IP-based service do not appear to be told that they will also be charged a $99.00 installation fee for voice service. While AT&T is willing to allow the consumer to pay this fee over three months upon complaint from the consumer, the additional charge for a change the Company initiated for the same functional service,

[65] The Internet speed is shown as only up to 1 Mbps. http://deals.servicebundles.com/verizon-home-phone/new-york/lansing#

[66] See http://www.verizon.com/FORYOURHOME/GOFLOW/OrderNew/BuildBundle.aspx

[67] There was also an issue where a PSC audit found that half of FiOS installations failed to properly ground the device, exposing consumers to electrocution/fire risk. This was resolved by forcing the company to go back and check every installation and correct them to meet National Electrical Code standards. http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=08-V-0835 (see Orders posted February 18, 2011, January 29, 2009, November 3, 2008).

[68] Verizon points out that factor in its description of its telephone service in Lansing, NY: Unmatched Peace of Mind and Convenience There are a lot of reasons to have home phone service from Verizon. You won't drop calls, your phone will almost always work, and when you're at home, you are always reachable. Here are just a few more reasons a home phone in Lansing is a good idea:
•FCC recommends a land line in an emergency
•Will work in a power outage
•Multiple phone on one line
•A clear connection, every time. http://deals.servicebundles.com/verizon-home-phone/new-york/lansing#

i.e. telephone service, raises the question of unjust and unreasonable charges as well as notice.[69]

4. Early termination charges. Consumers who have been encouraged or directed to change their DSL service for U-verse data have complained of being charged an early termination charge when they terminate U-verse service in less than a year. AT&T's web site states that a one-year commitment is required for U-verse data service, although the size of the early termination fee is only included in the "see offer details" link for 13 various offers.[70] Notice of this fee is often not clearly communicated to the customer, and raises equity concerns when the consumer is directed to change from DSL to U-verse. As one consumer stated in his complaint to the Illinois Attorney General:

> At the end of May [2013] ATT sent me a letter stating that I was REQUIRED [to] change to their U-verse Network. I did not ask for the change. The result was a disaster. I cancelled my service and moved to another provider. However, when I cancelled I was informed that I had a new CONTRACT when I changed to U-verse. I was never told about a contract, did not agree to one, was not requesting anything but rather was required to make a change. … ATT waived the cancellation costs when I 'reacted' so I do not have anything to recover but this practice cannot be permissible under the law."[71]

The imposition of early termination fees for a new service that the customer has not requested raises significant equity concerns because not all customers have the time or ability to dispute the charges in the event they encounter problems with the new service.

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[69] Illinois OAG Complaint 2014 CONSC 00370133, 2013 CONSC 00365916 (customer refused to pay the $99 installation fee for Voice and the $100 installation fee for Internet access and ultimately lost all service despite calling to reduce her bill).

[70] The "see offer details" link on AT&T's website contains terms and conditions for service bundles and is several pages long. The early termination charge states: "**Offers available for new residential AT&T Internet customers only.** 12-month term required. After 12 months, standard rate applies unless cancelled by customer. Qualifying AT&T home phone service required. Promotional rates may no longer apply if customer changes their speed tier during term. Up to $180 early termination fee applies." Link available at http://www.att.com/shop/internet.html#internetvoicebundles

[71] The complainant discussed in this paragraph enclosed two pieces of correspondence from AT&T to the customer. One letter dated May 13, 2013 references the one-year term, but only discloses that a $180 early termination fee "may apply if U-verse services are terminated" in the third of three endnotes. The second letter dated May 20, 2013 does not mention an early termination fee. Illinois OAG Tracking No. 13-145961.

This practice can also raise competitive concerns because it results in substantial transaction costs to consumers in the event they seek service from an alternative provider or simply choose to go without unsatisfactory service.

Customers who might not have IP service available and are offered the option to replace their TDM service with a wireless home phone face connection fees as well as activation fees. While a customer can avoid the $99.00 connection fee and the $36.00 activation fee by signing a two-year contract for AT&T's Wireless Home Phone, if the service proves unsatisfactory because the strength of the signal is insufficient, or the voice quality is not acceptable to the customer, the customer will face a $150 early termination fee. Customers moving from AT&T's TDM service into a Wireless Home Phone face the significant risk of a two year contract on an untried wireless service or significantly higher initial charges.[72]

5. Loss of legacy functions: Medical monitoring, security monitoring, building security/ "doorbell" function, fax machine usage, and other legacy functions may be impaired or lost by the transition to wireless or IP service. While a telephone company cannot be expected to know the needs of each of its individual customers, the failure to disclose changes in these services can cause dangerous situations. An Illinois consumer wrote to the Attorney General to point out that "if I had installed the system [U-verse Voice] and needed my emergency system it wouldn't have worked – no one ever asked me that question because I never would have ordered it." She did not go forward with the switch to U-verse because the Company had placed additional

[72] See Offer Details link at: http://www.att.com/shop/wireless/devices/att/wireless-home-phone-silver.html

conditions on her purchase of the service due to "an assessment of your credit history."[73] Illinois regulations regarding satisfactory credit requirements is discussed below.[74]

Customers of wireless substitutes, such as AT&T's Wireless Home Phone and Verizon's Voice Link also lose many legacy functions. AT&T's web site acknowledges that Wireless Home Phone **"**is not compatible with home security systems, fax machines, medical alert and monitoring services, credit card machines, IP/PBX Phone systems, or dial-up Internet service."[75] Verizon customers who subscribe to Verizon Home Phone Connect will find the same limitations.[76] The experiences and concerns of Fire Island, New York residents and businesses who were limited to Verizon's Voice Link service when Verizon declined to repair traditional telephone service in their area are discussed below.

d. Loss of Telecommunications Regulatory Protections.

As the example above demonstrates, a customer seeking IP based or wireless home phone service may be required to provide financial performance guarantees or other charges beyond those allowed under Illinois or other state regulations. Consistent with the goal of protecting consumers' option to be connected to the telephone network,[77] Illinois regulations limit the requirements that can be placed on new customers to posting deposits or prepayment. For example, a deposit is limited to two months service charge for residential customers, and can

[73] Illinois OAG Complaint 2013 CONSC 00358957.

[74] See page 23, below. A customer with current service that is not past due is entitled to service without a deposit under Illinois rules. 83 Ill. Adm. Code 735.110(e)(2)(A): "If the applicant has verifiable previous service with any telephone company for at least twelve months and the payment record on the account was satisfactory, the applicant would obtain service without a deposit."

[75] http://www.att.com/shop/wireless/devices/att/wireless-home-phone-silver.html

[76] http://www.verizonwireless.com/b2c/device/home-phone-connect?selectedContractTerm=2

[77] The public interest in widespread connection to the communications network is reflected in Section 201 of the Telecommunications Act. "It shall be the duty of every common carrier engaged in interstate commerce or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; … All charges, practices, classifications, and regulation for and in connection with such communication service, shall be just and reasonable…. The Commission may prescribe such rules and regulation as may be necessary in the public interest to carry out the provisions of this chapter." 47 U.S.C. 201.

only be required under specified circumstances.[78] By contrast, it appears that AT&T has asked for deposits as high as $450 for U-verse service, although the credit requirements for Voice alone are unclear.[79] Other consumer protections include notice prior to disconnection and the postponement of disconnection for 30 days in the event of illness.[80] Customers who only have wireless home phone options will lose the protections provided by traditional telephone regulation.

e. Effect Of Loss Of Wireline Service And Mandatory Cellular Substitution.

AT&T has stated that "some locations lack a positive business case for private sector investment"[81] and it has indicated its intention not to provide wireline service over its IP network to 25% of its customer locations.[82] In its Carbon Hill, Alabama trial, it intends to provide Wireless Home Phone service and discontinue the TDM network to a [confidential] portion of its Carbon Hill customers. AT&T suggests that "universal service support may be necessary to solve the broadband equation for everyone,"[83] implying that it is not willing to offer IP-based service in areas where the expected revenue from an individual wire center does not meet the company's expectations unless it receives subsidies from the Universal Service Fund.

In addition to reviewing the sufficiency of the wireless telephone and Internet access that AT&T (and Verizon) promote(s) as a substitute for wireline service, the Commission should

[78] 83 Ill. Adm. Code 735.100-735.120. For example, Illinois regulations provide that a new customer can be asked for a deposit if the customer does not meet two of seven credit criteria, such as existing service, home ownership, employment for two or more years, or having a credit card or bank account. *Id*. at 735.110(e).
[79] Credit requirements are not conspicuously presented on ATT.com. The Illinois Attorney General has received informal inquiries about the $450 deposit requirement for U-verse Video. The AT&T customer forum includes a report of similarly high deposit requirements for video at http://forums.att.com/t5/U-verse-General-Care-and-Support/Required-Deposit/td-p/3681371 (customer complained of a $449 deposit requirement on AT&T customer forum, 10-12-2013). See also http://www.complaintsboard.com/complaints/att-u-verse-charlotte-california-c276947.html (2009-2011 - customer informed of required $450 deposit and comments).
[80] *Id*. at 735.130 & 735.140.
[81] AT&T Proposed Trials at 17.
[82] *Id*. at 6 ("Our wireline IP network will reach approximately 75 percent of the customer locations in our 22-state wireline footprint, with many experiencing faster speeds." AT&T asserts that 99% of its customer locations will have access to 4G LTE wireless services.).
[83] *Id.* at 17.

independently assess the costs associated with expanding IP service to a carrier's entire existing footprint. AT&T and Verizon, as well as Comcast and other carriers, are multi-billion dollar companies that are providing service in the densest parts of the country as well as in the less dense areas.[84] Further, these companies tend to have uniform rates nationally, raising the question of whether the revenues from the areas that are less costly to serve are sufficient to expand service to the more costly per customer areas. The Commission cannot assess the assertion that it is not economical to serve a small area like Carbon Hill, Alabama without knowing both the cost to provide wired IP service to that area, and how that cost compares to the overall profitability of the firm. From a state and local point of view, profitability should be considered on the state level, rather than on the level of a wire center. Using the wire center as the measure of profitability ignores the economies of scale that are the essence of the network, and the benefits that result when high cost and lower cost areas are combined to provide universal access to the network at reasonable prices.

In its trial proposal, AT&T asserts that wireless networks are sufficient to replace both wireline voice and Internet service. Nevertheless, the Company cautions that it is still developing certain enhancements or capabilities not yet available, such as compatibility with home security systems, fax machines, medical alerts, and credit card applications (which are essential to business customers).[85] As described above, Verizon's "home phone" wireless product also has these limitations.

In New York, Verizon offers to substitute wireless Voice Link for wireless facilities when it informs customers that repair of their wireline service will no longer be available. Even in areas far beyond Fire Island that were unaffected by Hurricane Sandy, Verizon has asked

[84] AT&T Wire Center Trial Operating Plan at 5.
[85] *Id*. at 20.

customers to substitute wireless Voice Link for wireline service without clearly disclosing all of the significant differences in service such as Voice Link's inability to support DSL, alarm systems, medical alert devices, or fax machines.[86] According to Communications Workers of America (and confirmed by complaints to the New York Attorney General), Verizon is rolling out Voice Link from New York City to the Catskills region, and all the way to Buffalo.

New York consumers have attended multiple public hearings to express their disappointed expectations with Voice Link service.[87] In the absence of IP investment by the incumbent carrier, consumers lost both reliable telephone service and high speed Internet service (i.e. faster than 4 mbps).[88] They were left with wireless service that in some cases was unreliable,[89] lacked clear voice quality that made it impossible for a person with hearing loss to use the service,[90] and was insufficient for expected Internet business functions such as credit card transactions or simply taking restaurant reservations.[91]

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[86] *See* NYSPSC Case 13-C-0197, Emergency Petition Of New York Attorney General Eric T. Schneiderman For An Order Preventing Verizon From Illegally Installing Voice Link Service In Violation Of Its Tariff And The Commission's May 16, 2013 Order, filed June 26, 2013, *http://documents.dps.ny.gov/public/common/viewdoc.aspx? DocRefId={A3FOA269-8613-4437-AEB3-35ACCF6E5A47}*. Verizon's web site, in suggesting that consumers subscribe to wireline telephone service in Lansing, NY states: "You may not know it, but as many as 12% of cell phone calls are dropped. In Lansing there are currently 3,680 people. Taking a daily average, this means there are 3,533 dropped calls. Don't get disconnected on the calls that matter most. Verizon home phone delivers 99.9% network reliability. As a subscriber you also get: A clear connection." http://deals.servicebundles.com/verizon-home-phone/new-york/lansing#

[87] See NY PSC Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to discontinue its current wire line service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.* Verizon later withdrew this request in a letter dated September 11, 2013http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=13-C-0197

[88] See *id.*, Public Comment tab (indicating 1,740 comments as of 12/6/2013) and Temporary Use of Verizon's Voice Link Service on Fire Island, Transcript of August 24, 2013 Public Hearing at Ocean Beach Community House, Ocean Beach, New York, NY PSC Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to discontinue its current wire line service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.*

[89] *Id.* Many people testifying at the hearing described unreliable service, including interruptions by recorded message, dropped calls, inability to be heard, lack of connection when making calls, and lack of connection when called.

[90] *Id.* at 68 ("I was able to hear quite well I would say on a land line and hold a long conversation. And with the Voice Link service that I now have my telephone is useless to me. … Communication is a treasure and if you're losing your hearing you experience that more than ever.").

[91] *Id.* at 6-8.

Consumers on Fire Island, New York, where Verizon sought to replace wireline telephone and Internet access with its wireless Voice Link service for a period of time before agreeing to restore wireline service, provided written comments to the New York Public Service Commission and attended hearings describing how they were experiencing the IP transition.[92] Consumers raised the fundamental question of whether it is legal or fair to allow an incumbent carrier to disinvest in a community where it has provided service, mostly on a monopoly basis, for years.[93] One consumer stated: "We are not that many people. We're here just mainly during the summer months, but around the country there are many, many other places that are far away that are inconvenient for Verizon. And if they can get away with not servicing their customers, they're certainly going to get away with it." The consumer concluded with asking that Verizon be required to continue to provide landline telephone service to his community on Fire Island in New York.[94]

In addition to consumer frustration with inadequate wireless telephone and Internet access service, the Commission must assess the capacity of the nation's wireless system. In its *Report to the President on Communications Resiliency (*April 19, 2011*)* the President's National Security Telecommunications Advisory Committee pointed out that mobile data use is a tiny percentage of overall data use, with the vast majority of data going over the wired network. It concluded that wireless data use "will remain a small percentage of overall data traffic *given the*

[92] See NY PSC Case No. 13-C-0197, *Tariff filing by Verizon New York Inc. to discontinue its current wire line service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.* Verizon later withdrew this request by letter dated September 11, 2013. See also Public Comments tab indicating 1746 public comments.

[93] *Id*. at 73, 95-96 ("I don't understand why the Public Service Commission gave Verizon the authority not to fix our lines. A public utility is mandated to service customers. It's not optional. Some years you make a lot, some years you don't make so much, but you can't say 'Oh, we're really not going to do it because we're not making enough.' It's just not an option. Because you're a monopoly, because you are a public utility, that's not something you can say.").

[94] *Id.* at 97.

spectrum limitations inherent in wireless infrastructure."[95] In considering whether wireless service, both telephone and data, is a fair substitute for wired service, the Commission must assess not only the legacy functions of the TDM network, but the capacity of the wireless network in light of these spectrum limitations.

f. Conclusion

Consumers today are facing the real changes associated with the IP transition. AT&T is correct when it states that "[t]he IP transition is well underway."[96] While "the fourth network revolution" described by Chairman Wheeler[97] has the potential to bring improved and innovative services, today too many consumers are describing poorer service, increased prices and fees, and misleading communications. The Commission should address the transition, both in terms of the trials proposed in this proceeding and in addressing the ongoing IP transition with an eye firmly on the statutory core values of universal and affordable service, public safety, accessibility to people with disabilities, and competition. While the transition from TDM based communications services to IP based communications services involves a shift in underlying technology, it is also involving substantial changes to consumers' access to quality communications services, costs, and available functions. The experiences of consumers as reported to States and other regulatory agencies provide valuable insight into how consumers are experiencing the IP transition and how they can be expected to respond to the possibility that they will lose the option of landline telephone service and Internet access. These are issues that the Commission should expressly examine as part of the trials and its review of the IP transition.

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[95] *Report to the President on Communications Resiliency*, the President's National Security Telecommunications Advisory Committee at 4-5 *(*April 19, 2011)*(*emphasis added*.*

[96] AT&T Proposed Trials at 2.

[97] *Id.*; Tom Wheeler, *Net Effects: The Past, Present and Future Impacts of Our Networks*, ebook (Kindle) at location 103.

V. The Commission Should Require Extensive Reporting From The Major Providers Of Telephone Service So The Effects Of The IP Transition Can Be Identified And Addressed.

The Commission has invited proposals for data collection in connection with the technology and service trials authorized in this proceeding. The trials are intended to include "a diverse set of experiments and data collection initiatives" to evaluate the effect of the transition from TDM circuit-switched voice services to an all- IP network using copper, co-axial cable, wireless, and fiber as physical infrastructure.[98]

The Commission and commenters have laid out what is at stake in this proceeding. The proposals to "transition" to IP do not just replace one technology with another – like going from rotary dial telephones to touch tone. Rather, AT&T's proposed trial as well as Verizon's proposal to discontinue TDM service and replace it with wireless home phone service in New York demonstrate that incumbent telephone companies' obligation to provide universal, reliable, and affordable telephone service to all locations in its service territory is in the balance.

In order to enable the Commission to identify the issues and their potential resolution, it is crucial that comprehensive and consistent information be produced by each trial and that the Commission reach out to major carriers to gather needed information. The two AT&T trials that have been proposed are too small to enable the Commission to assess the effect of the IP transition on our communications networks and needs. A broader data collection effort is needed. A list of proposed questions to facilitate gathering data to allow an accurate assessment of how the IP transition is affecting consumers and their communications needs is included as Attachment 1 to these Comments.

[98] Initiating Order, ¶ 1.

In connection with the IP transition, the Commission should require the telephone and Internet access providers who provide service in areas with more than 1 million customer locations and originated as regulated cable or telephone carriers to provide the information identified on Attachment 1 to these Comments. In addition, the Commission should hold public hearings in the areas where the trials are being conducted, after providing consumers with specific information, approved by the Commission and the local regulatory commission, about the service changes that are expected, including changes in functions, service quality, reliability, price, and other terms and conditions.

VI. Conclusion

Wherefore, for the above reasons, the People of the State of Illinois, by Attorney General Lisa Madigan, request that in evaluating the effects of, and responding to, the transition from TDM, circuit switched telecommunications services to IP based telecommunications services,

the Commission require the major incumbent carriers (or their successors) to provide the information identified herein and in Attachment 1 to these Comments, and further, that the Commission invite the State regulatory commissions and State Attorneys General to share their experiences with telecommunications consumers so that the Commission can be informed about the day-to-day effect of the IP transition on consumers.

Respectfully submitted,

The People of the State of Illinois

By LISA MADIGAN, Attorney General

___/s/_____

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Technology Transitions	)	GN Docket No. 13-5
	)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition	)	GN Docket No. 12-353
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Structure and Practices of the Video Relay Service Program	)	CG Docket No. 10-51
	)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
Numbering Policies for Modern Communications	)	WC Docket No. 13-97
	)	

Attachment 1 To The People Of The State Of Illinois
Comments On Trials and Data Collection

Data should be collected by the Commission so that the following questions can be answered to assess the effect of the IP transition on consumers. This information should be gathered at public hearings, from the Commission's Consumer and Government Affairs Bureau, and solicited from state public service commissions, from state Attorneys General, and from non-for-profit associations and organizations (e.g. AARP, Citizens Utility Boards) that have regular contact with consumers.

The issues raised by the trials are not limited to the two small wire centers selected by AT&T for its technical trials. In order to assess the effects of the IP transition, the Commission needs to look beyond these two small trials, and evaluate the experiences of the states and consumers where the shift from traditional TDM service to IP based and wireless telephony and Internet access is occurring.

The Commission should gather information sufficient to enable it to answer the following questions related to the IP transition:

1. Service Availability

A. Universal Service.

1. What has been the effect of the IP Transition on universal service?

2. Are telephone and Internet access services becoming more or less available to Americans as a result of the IP transition and associated wireless substitution?

3. Are there differences in availability of services among rural and urban areas, among states, and within and among ILEC service areas?

4. Is there a cost basis for a reduction in service availability?

5. Is it reasonable to ask a carrier that provides telephone service to provide universal service without subsidy?

6. What factors should be considered in determining whether a universal subsidy is appropriate, such as whether the carrier charges a unified rate for all areas nationally or on a state basis, and the extent of the financial and investment burden of universal service?

B. Mandatory Bundling.

1. At any time over the last five years, have residents seeking to order new residence telephone service been told that stand-alone landline telephone service will not be provided upon request, or must be bundled with Internet or video service?

2. At any time over the last five years, have customers with existing stand-alone landline services been advised that they will be required to accept a bundle in order to retain their basic telephone service?

C. Connection Fees.

1. Are consumers being charged a connection fee to switch from TDM to IP based service (a) when the TDM to IP migration is at the request of the customer and (b) when the TDM to IP migration is involuntary or at the suggestion of the carrier in response to an inquiry about service quality, repair, or price?

2. How much is the fee and is there a cost basis for the connection fee?

D. Early Termination Fees.

1. Are early termination fees assessed for voice or data service (a) when the TDM to IP migration is at the request of the customer and (b) when the TDM to IP migration is involuntary or is at the suggestion of the carrier in response to an inquiry about service quality, repair, or price?

2. If so, what is the amount, what notice is provided to the consumer, and is there a cost basis for the charge?

2. Service Quality

A. Voice Quality

1. Are customers satisfied with TDM service?

2. Are customers satisfied with IP voice services? Does customer satisfaction with IP service vary based on distance from the wire center?

3. Have consumers found the wireless "home phone" option to be a true and acceptable substitute for wireline services where a wireline service is no longer available?

B. Repair experience

1. How are consumer requests to repair local telephone service and Internet access service handled?

2. Are repair requests incorporated into the IP Transition, and if so, how are consumers being informed of the associated changes in service?

3. Does the carrier migrate a customer from TDM service to IP service in response to repair requests made with respect to voice telephone service? If so, what percentage of repair reports results in the replacement of TDM service with IP based service?

4. Have repair requests with respect to existing TDM services resulted in the termination of voice telephone service for that customer? If so, what percentage of repair reports result in the termination of telephone service?

3. Prices, Terms, and Conditions

A. Prices

1. What are the prices for TDM based local telephone service and what are the prices for the IP based local telephone service to which the transitions are occurring?

2. Are TDM telephone services tariffed in the state? Which ones?

3. Are IP-based telephone services tariffed in the state? Which ones?

4. Are stand-alone voice services available? Is stand-alone local service available?

5. Are untimed local calls currently available in the trial areas or in other states?

6. How are local IP voice services priced? Are they priced per minute, per call, unlimited, or otherwise? What is range of calling?

7. What is the effect of a change to toll, minute of use charges for local usage on use of the network and total cost to the consumer for residence TDM services that are migrated to IP?

8. Is there a cost basis for minute-of-use charges?

9. Are preferences shown to some carriers' customers?

10. How do these practices comport with the basic principles of common carriage?

4. Competition

1. In how many areas are there other wired options available, e.g., from municipal networks or cable networks, and are consumers using those options?

2. What will be the effect on competition if AT&T withdraws wireline telephone and Internet access from households in in the trial areas?

3. What will be the effect on competition and consumer choice if AT&T, Verizon or another incumbent carrier withdraws wireline telephone and Internet access from households in parts of their service area?

4. What consumer protections will be necessary if the IP transition results in only one, or at most two, wireline telephone and Internet access provider(s) in a given part of the country?

5. Consumer Protection

1. Do the carriers treat IP telecommunications services as telecommunications services or as information services?

2. Are IP-based services subject to different state regulatory treatment than TDM-based services? If so, what are the differences?

3. What is the effect on price, terms and conditions, and service quality if IP telecommunications services are treated as an information service?

4. Does a consumer's shift to IP technology for telecommunications services such as telephone service and Internet access remove those services from state or federal regulatory or other consumer protection?

6. Internet access

1. Will high speed access to the Internet become more or less available when areas are transitioned to IP?

2. Will the charges for Internet access increase or decrease when areas are transitioned to IP, and how will prices be affected by bundling requirements?

3. In areas without IP wireline service, are the terms of wireless Internet access comparable to wireline Internet access in terms of price, usage caps, speed and other factors?

4. In areas without IP wireline service, are there spectrum limitations that will reduce the capabilities or capacity of wireless Internet access compared to wireline Internet access?

7. 911

1. Will 911 calls dialed from IP-based or wireless substitutes for legacy TDM landline services be directed to the same emergency center, or "public safety answering point" or PSAP that would customarily serve the caller's location at the time the call is placed?

2. Will 911 calls dialed from IP-based or wireless substitutes for legacy TDM landline services be identified to the PSAP or other answering point with the precise address and, in the case of multi-dwelling unit (MDU) buildings, the unit number of the caller?